

REMARKS/ARGUMENTS

In the Office Action mailed June 20, 2008 (hereinafter, "Office Action"), claims 1-4, 8-11 and 15-18 stand rejected under 35 U.S.C. § 103. Claims 5-7 and 12-14 were objected to as being dependent upon a rejected claim, but were otherwise allowable. Claims 19 and 20 were previously added but were not addressed by the Office Action.

Applicants respectfully respond to the Office Action.

I. Claims 1-4, 8-11 and 15-18 Rejected Under 35 U.S.C. § 103

Claims 1-4, 8-11 and 15-18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,082,107 to Arvelo (hereinafter, "Arvelo") in view of U.S. Patent Application Publication No. 2001/0030955 to Lee et al. (hereinafter, "Lee"). Applicants respectfully traverse.

The factual inquiries that are relevant in the determination of obviousness are determining the scope and contents of the prior art, ascertaining the differences between the prior art and the claims in issue, resolving the level of ordinary skill in the art, and evaluating evidence of secondary consideration. KSR Int'l Co. v. Teleflex Inc., 550 U.S. ____, 2007 U.S. LEXIS 4745, at **4-5 (2007) (citing Graham v. John Deere Co. of Kansas City, 383 U.S. 1, 17-18 (1966)). As the Board of Patent Appeals and Interferences has recently confirmed, "obviousness requires a suggestion of all limitations in a claim." In re Wada and Murphy, Appeal 2007-3733 (citing CFMT, Inc. v. Yieldup Intern. Corp., 349 F.3d 1333, 1342 (Fed. Cir. 2003)). Moreover, the analysis in support of an obviousness rejection "should be made explicit." KSR, 2007 U.S. LEXIS 4745, at **37. "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." Id. (citing In re Kahn, 441 F.3d 977, 988 (Fed. Cir. 2006)).

Applicants respectfully submit that the claims at issue are patentably distinct from the cited references. The cited portions of the cited references do not teach or suggest all of the subject matter in these claims.

For example, claim 1 recites, among other subject matter, "determining a first number of installments for transmission of a first subpacket of data; power boosting transmissions of a

second number of installments of the first subpacket of data.” (Emphasis added). The cited portions of Arvelo, alone or in combination with the cited portions of Lee, do not teach or suggest this subject matter.

In making the rejection, the Office Action relies on Arvelo to show determining a first number of installments for transmission of a first packet of data (Col. 3, lines 25-33; Col. 4, lines 51-65) and power boosting transmissions of a second number of installments of the first packet of data (Col. 4, lines 23-56; Col. 8, lines 5-32). (See Detailed Action, page 2, numbered paragraph 4). In response, Applicants first note that the Office Action’s analysis appears to substitute the word “packet” for the term “subpacket,” as clearly set forth in Applicants’ claim 1. This is a significant distinction since Applicants’ claim 1 also refers to “installments” for transmission of a subpacket, which are neither taught nor suggested by the cited portions of Arvelo and Lee. Moreover, Applicants note that “installments” as used in Applicants’ claims and described in Applicants’ Specification (numbered paragraphs [0065]-[0070]) refer to elements of a subpacket.

The cited portions of Arvelo (Col. 3, lines 25-33; Col. 4, lines 51-65) can be characterized as discussing a technique for determining an appropriate observation window size to determine actual packet error rates versus target packet error rates in order to make power adjustments. However, notably absent from the cited portions of Arvelo is any discussion of installments of subpackets. Thus, Arvelo does not teach or suggest determining a first number of installments for transmission of a first subpacket of data, as set forth in Applicants’ claim 1. Necessarily, the cited portions of Arvelo also fail to teach or suggest power boosting transmissions of a second number of installments of the first subpacket of data, as recited in Applicants’ claim 1. The cited portions of Lee fail to cure the deficiencies of Arvelo.

In view of the foregoing, Applicants respectfully submit that claim 1 is patentably distinct from the cited references. Accordingly, Applicants respectfully request that the rejection of claim 1 be withdrawn.

Claims 2-4 depend either directly or indirectly from claim 1. Accordingly, Applicants respectfully request that the rejection of claims 2-4 be withdrawn.

Claim 8 includes subject matter similar to the subject matter of claim 1. As such, Applicants submit that claim 8 is patentably distinct from the cited references for at least the

same reasons as those presented above in connection with claim 1. Accordingly, Applicants respectfully request that the rejection of claim 8 be withdrawn.

Claims 9-11 depend either directly or indirectly from claim 8. Accordingly, Applicants respectfully request that the rejection of claims 9-11 be withdrawn.

Claim 15 recites, among other subject matter, a base station comprising a packet processing unit adapted to receive data for transmission and generate subpackets, each of the subpackets transmitted in a number of installments; a power boost unit adapted to apply a power boost factor to a portion of the subpackets; an acknowledgement message processing unit adapted to terminate transmission of installments for a subpacket on receipt of an acknowledgement message. (Emphasis added). Applicants submit that, due to the deficiencies of the cited portions of Arvelo and Lee discussed above, the cited references also fail to teach or suggest all of the subject matter of Applicants' claim 15.

In view of the foregoing, Applicants respectfully submit that claim 15 is patentably distinct from the cited references. Accordingly, Applicants respectfully request that the rejection of claim 15 be withdrawn.

Claim 16 recites, among other subject matter, transmitting a first negative acknowledgement message for a last installment of a first subpacket and transmitting a second negative acknowledgement message for the last installment of the first subpacket. (Emphasis added). Applicants submit that, in view of the deficiencies of the cited portions of Arvelo and Lee discussed above, the cited references also fail to teach or suggest all of the subject matter of Applicants' claim 16.

In view of the foregoing, Applicants respectfully submit that claim 16 is patentably distinct from the cited references. Accordingly, Applicants respectfully request that the rejection of claim 16 be withdrawn.

Claim 17 depends from claim 16. Accordingly, Applicants respectfully request that the rejection of claim 17 be withdrawn.

Claim 18 includes subject matter similar to the subject matter of claim 16. As such, Applicants submit that claim 18 is patentably distinct from the cited references for at least the same reasons as those presented above in connection with claim 16. Accordingly, Applicants respectfully request that the rejection of claim 18 be withdrawn.

II. Claims 19 and 20

Claims 19 and 20 have been previously added but do not appear to have been examined. Claim 19 includes subject matter similar to claim 1. As such, Applicants submit that claim 19 is patentable for at least the same reasons as those discussed in relation to claim 1. Claim 20 includes subject matter similar to claim 16. As such, Applicants submit that claim 20 is patentable for at least the same reasons as those discussed in relation to claim 16.

III. Claims 5-7 and 12-14 Objected

The Office Action objected to claims 5-7 and 12-14 as being dependent upon a rejected base claim. Applicants note with appreciation the Examiner's indication that claims 5-7 and 12-14 contain allowable subject matter.

CONCLUSION

In view of the foregoing, Applicants respectfully submit that all pending claims in the present application are in a condition for allowance, which is earnestly solicited. Should any issues remain unresolved, the Examiner is cordially invited to telephone the undersigned at the number provided below.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

Dated: September 10, 2008

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